

NO. PD-0618-16

CLINTON DAVID BECK

v.

THE STATE OF TEXAS

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IN THE COURT OF

COURT OF CRIMINAL APPEALS

1/11/2017

CRIMINAL APPEALS

AT AUSTIN, TEXAS

STATE'S LETTER OF ADDITIONAL AUTHORITIES

TO THE HONORABLE JUDGES OF SAID COURT:

Now comes the State of Texas, Appellee in the above-styled and -numbered cause, and files this its *Letter of Additional Authorities* which may be relevant and helpful to the Court's decision:

Ex parte Shay, WR-84,007-01, at *7 (Tex. Crim. App. Dec. 14, 2016) (Stating that "[a]fter *this* Court" *previously* held unconstitutional the exact portion of the improper photography statute upon which the applicant's conviction was based, *Smith v. State* [463 S.W.3d 890, 895 (Tex. Crim. App. 2015)] logically tended to support the argument that the subject-matter jurisdiction of the trial court was undermined) (emphasis added)).

The following citations also touch on various iterations of plain error review in some of the states cited by Appellant:

Arizona: *State v. Bolton*, 182 Ariz. 290, 297–98 (1995) (internal citations omitted); *see also State v. Henderson*, 209 Ariz. 300, n. 4 (App.2004), *vacated in part on other grounds by State v. Henderson*, 210 Ariz. 561, 115

P.3d 601 (2005); **Florida:** *see State v. Johnson*, 616 So. 2d 1, 3 (Fla. 1993); **Massachusetts:** *See Com. v. Johnson*, 470 Mass. 300, 307 (2014); **Mississippi:** *Ezell v. State*, 132 So. 3d 611, 612 (Miss. Ct. App. 2013); **Montana:** *State v. Favel*, 381 Mont. 472, 487–88 (2015) (McKinnon, J., specially concurring); **New Mexico:** *State v. Hill*, 144 N.M. 775, 782 (2008) **North Carolina:** *State v. Jarrell*, 157 N.C. App. 365 (2003) (failed to assert plain error on appeal); **Ohio:** *State v. Quarterman*, 140 Ohio St. 3d 464, 469 (2014); **Utah:** *State v. Archambeau*, 820 P.2d 920, 926 (Utah Ct. App. 1991); **Virginia:** *Anderson v. Com.*, 2305-14-2, 2016 WL 1425426, at *7 (Va. Ct. App. Apr. 12, 2016) (not designated for publication); *see also Banks v. Mario Indus. of Virginia, Inc.*, 274 Va. 438, 451 (2007); **Washington:** *City v. Willis*, 186 Wash. 2d 210, 218 (2016) (citing Rule of Appellate Procedure 2.5(a)(3)); *State v. Paumier*, 176 Wash. 2d 29, 53, 288 P.3d 1126, 1138 (2012) (Wiggins, J., dissenting); **West Virginia:** *State v. Hall*, 12-1082, 2013 WL 3184665, at *3 (W. Va. June 24, 2013) (not designated for publication).

Respectfully submitted,

/s/ Joshua D. Presley

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CERTIFICATE OF SERVICE

I, Joshua D. Presley, Assistant District Attorney for the State of Texas, Appellee, hereby certify that a true and correct copy of this *State's Letter of Additional Authorities* has been delivered to Appellant CLINTON DAVID BECK's attorneys in this matter:

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By electronically sending it to the above-listed email addresses through efile.txcourts.gov, this 4th day of January, 2017.

/s/ Joshua D. Presley
Joshua D. Presley